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In re Application of CHARLIER et al '
U.S. Application No.: 10/550,158
PCT Application No.: PCT/EP2004/003000
Int. Filing Date: 22 March 2004
Priority Date Claimed: 20 March 2003
Attorney Docket No.: 30607/41527
For: CARBON NANOSTRUCTURES. ...

DECISION

This is in response to applicant's "Request to Correct Inventorship Under 37 C.F.R. § 1.48(a)" filed 10 October 2006, which is being treated under 37 CFR 1.497(d).

BACKGROUND

On 22 March 2004, applicant filed international application PCT/EP2004/003000, which claimed priority of an earlier Germany application filed 20 March 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 30 September 2004. The thirty-month period for paying the basic national fee in the United States expired on 20 September 2005.

On 20 September 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 May 2006, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

On 10 October 2006, applicant filed the present petition under 37 CFR 1.497(d).

DISCUSSION

The petition states that Laurent Fulcheri should be added as an inventor.

37 CFR 1.497(d) (effective 07 November 2000) states,

If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application, the oath or declaration must be accompanied by: (1) a statement from each person being added as an inventor and from each person being deleted as an inventor that any error in inventorship in the international application occurred without deceptive intention on his or her part; (2) the processing fee set forth in 37 CFR 1.17(i); and (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

With regard to item (1) above, the requisite statement has been provided.

With regard to item (2) above, the requisite processing fee has been provided.

With regard to item (3) above, although written consent of the purported assignees Timcal S.A. and Armines Assn. has been provided, proof of ownership of the assignees has not been established. See 37 CFR 3.73(b). Although the petition states that copies of the assignment agreements are attached, such assignment agreements are not present in the application file.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.497(d) is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are NOT available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.497(d)". No additional petition fee is required.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

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